



# MEMORANDUM RCA

Agenda Item No. 1B3

TO: Honorable Chairperson and Members  
Board of County Commissioners

DATE: May 14, 2003 --

FROM: Steve Shover  
County Manager

SUBJECT: Amendment to Section 2-11.1  
Code of Miami-Dade County  
Cone of Silence

**This item needs to be added on in order for the amendment to be referenced in future Request for Proposals for Community-Based Organizations.**

## **RECOMMENDATION**

It is recommended that the Board authorize the amendment of Section 2-11.1 of the Code of Miami-Dade County, Florida, relating to the Cone of Silence, to exempt the Request for Proposals Community-Based Organization competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments and the Department of Environmental Resources Management.

## **BACKGROUND**

The Park and Recreation and Library Departments annually conduct a Community Based Organization (CBO) competitive grant process together. The Department of Environmental Resources Management, with the Water and Sewer, and Solid Waste Departments also jointly conduct a similar process. Both processes are subject to the Cone of Silence. Since the ordinance was adopted, staff have experienced numerous challenges in adhering to the Cone of Silence provisions, while attempting to conduct a practical and helpful competitive process for non-profit organizations.

The Ordinance currently allows verbal communications with potential proposers "limited strictly to matters of process or procedure already contained in the corresponding solicitation document" [(t)(a)vii]. In the referenced competitive processes, however, questions from the CBOs often are not related to process or procedure. The proposers are non-profit organizations, frequently all volunteer, and they have questions about project elements, such as potential project locations, project feasibility, compatibility with County/Departmental goals, general scope of proposed projects, etc. The answers to these questions often require discussion. Verbal discussion is appropriate and more helpful for both staff and the CBOs whose purpose is to provide non-profit services to the community.

The Cone of Silence restrictions are particularly challenging for the discussion of potential capital improvement projects for which funds are awarded through the Park and Recreation Department. There can be numerous technical and logistical considerations when developing the proposed projects and these must be addressed both before and after the CBO submits the application.



# MEMORANDUM

(Revised)

**TO:** Honorable Chairperson and Members  
Board of County Commissioners

**DATE:** April 22, 2003

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Not On  
Agenda Item No. 13(K)

Please note any items checked.

☒

"4-Day Rule" ("3-Day Rule" for committees) applicable if raised

☐

6 weeks required between first reading and public hearing

☐

4 weeks notification to municipal officials required prior to public hearing

☐

Decreases revenues or increases expenditures without balancing budget

☐

Budget required

☐

Statement of fiscal impact required

☐

Bid waiver requiring County Manager's written recommendation

☐

Ordinance creating a new board requires detailed County Manager's report for public hearing

☐

Housekeeping item (no policy decision required)

☐

No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Not On  
Agenda Item No. 13(K)  
4-22-03

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 2-11.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO THE CONE OF SILENCE; AMENDING EXCEPTION TO CONE OF SILENCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-11.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-11.1. Conflict of Interest and Code of Ethics  
Ordinance.**

\* \* \*

(t) Cone of Silence.

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.

- (a) "Cone of Silence" is hereby defined to mean a prohibition on: (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; (ii) any

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee therefor; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefor; (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and (vi) any communication regarding a particular RFP, RFQ or bid between any member of the County's professional staff and any member of the selection committee therefor. The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation memorandum submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to (i) competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development >>and the community-based

organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments and the Department of Environmental Resources Management<<; (ii) communications with the County Attorney and his or her staff; (iii) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs the Community Business Enterprise and Equitable Distribution Programs; (iv) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure; (v) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation; (vi) any emergency procurement of goods or services pursuant to Administrative Order 3-2; (vii) communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; (viii) communications regarding a particular RFP, RFQ or bid between the procurement agent or contracting officer, or their designated secretarial/clerical staff responsible for

administering the procurement process for such RFP, RFQ or bid and a member of the selection committee therefor provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

RA6

Prepared by:

mmc

Mariela Martinez-Cid

6